

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.

★ **MAY 05 2017** ★

BROOKLYN OFFICE

DECKERS OUTDOOR CORPORATION,

Plaintiff,

- against -

HUANG, et al.,

Defendant.

DECISION AND ORDER

15-cv-04772 (AMD) (RER)

ANN DONNELLY, District Judge.

The plaintiff, Deckers Outdoor Corporation, commenced this action on August 14, 2015. (ECF 1.) The plaintiff alleged that the defendants, Jian Min Huang, Dekai Qu, Herizon Trading, Inc., Jian Kai Huang, Xiao Pao Tang, Ben Liang, and DOES 4-10, imported and sold counterfeit UGG footwear, which amounted to the following violations: (1) infringement of registered trademarks in violation of Section 32(1) of the Trademark Act of 1946 ("Lanham Act"), 15 U.S.C. § 1114(1); (2) false designation of origin and trademark and trademark dress infringement in violation of Section 43(a)(1)(A) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(A); (3) unlawful importation of goods bearing infringing marks in violation of Section 42 of the Lanham Act, 15 U.S.C. § 1124; (4) unlawful importation of goods bearing registered United States trademarks in violation of Section 526(a) of the Tariff Act, 19 U.S.C. § 1526(a); (5) patent infringement in violation of 35 U.S.C. § 271; (6) injury to business reputation pursuant to New York General Business Law ("GBL") § 360-1; (7) New York common law trademark infringement; and (8) New York common law misappropriation and unfair competition. (*Ibid.*)

On September 21, 2015, the plaintiff filed its First Amended Complaint. (ECF 6.) On March 24, 2016, the plaintiff filed its Second Amended Complaint. (ECF 20.) The defendants were required to answer the Second Amended Complaint by April 18, 2016. The defendant, Jian Kai Huang, failed to file an answer or otherwise move against the complaint. On October 25, 2016, claims against the other defendants were dismissed pursuant to a settlement agreement, but excluded the defendant Jian Kai Huang. (ECF 38.)

On December 1, 2016, the plaintiff moved for default judgment against the defendant, and sought permanent injunctive relief, statutory damages, costs, and attorney's fees. (ECF 42.) In a Report and Recommendation ("R&R") issued on April 20, 2017, Magistrate Judge Ramon E. Reyes, Jr., recommended that the Court grant the plaintiff's motion for default judgment and a permanent injunction against the defendant. (ECF 43.) Judge Reyes also recommended that the plaintiff be awarded \$750,000 in statutory damages under the Lanham Act, as well as reasonable costs and attorney's fees upon submission of appropriate records. (*Ibid.*) On April 27, 2017, the plaintiff wrote to notify the Court that it did not object to Judge Reyes' R&R, and that it waived recovery of its costs and fees. (ECF 45.) The defendant did not object to the R&R within the time prescribed by 28 U.S.C. §636(b)(1).

In reviewing a R&R, a district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). Where, as here, no party has objected to the magistrate judge's recommendation, "a district court need only satisfy itself that there is no clear error on the face of the record." *Urena v. New York*, 160 F.Supp.2d 606, 609-10 (S.D.N.Y. 2001) (quoting *Nelson v. Smith*, 618 F.Supp. 1186, 1189 (S.D.N.Y. 1985)).

This Court has reviewed Judge Reyes' thorough and well-reasoned opinion, and finds no error. Accordingly, the plaintiff's motion for a default judgment and for permanent injunctive relief and statutory damages is granted. Pursuant to the plaintiff's April 27, 2017 letter, costs and attorney's fees are waived.

SO ORDERED.

s/Ann M. Donnelly

Ann M. Donnelly
United States District Judge

Dated: Brooklyn, New York
May 5, 2017